

It sometimes happens that an act is abetted, but the act actually done has a different result or effect legally : the abettor is just as much liable as if he had directly abetted the act accomplished, provided that the result which actually followed was a probable consequence of the abetment and was committed under the influence of the abetment. (Section 111)<sup>9</sup>.

If the offence is *not* actually committed, then if it is a grave offence punishable with death or transportation for life, the abetment is specially punishable under section 115. If it is a less offence punishable with imprisonment, the abettor may receive sentence of one-fourth of the longest term of imprisonment provided for the offence, or fine as provided for the offence, or both ; and if the abettor is a public servant, whose duty was to prevent the offence, the sentence may be double, *i.e.*, may extend to *one-half* the term of imprisonment. (Section 116.)

There are some special cases connected with abetment, provided for in sections 112, 113, &c., which it is not necessary for the forest student to enter into.

It is important, however, to note that under section 114, if a person who would, if absent at the time of committing the offence, be liable as an abettor only, is *present* at the commission, he is treated not as an abettor, but as a principal. (See also Indian Penal Code, section 34.)

## SECTION II.—OFFENCES INDIRECTLY CONNECTED WITH FOREST ADMINISTRATION.

### § 1.—*Scope of the Section.*

Of the offences under the Indian Penal Code, *indirectly* connected with forest administration, *i.e.*, likely to occur or to come within the range of a Forest Officer's practice as such, I may mention the principal:

<sup>9</sup> An illustration is afforded by the case of A instigating the burning of Z's house by B. B acts on the abetment, but taking advantage of the fire, commits a theft of property in the house. A is responsible for the abetment of the burning, but not the theft, for that was not connected with the abetment by instigation.

### § 2.—*Unlawful Assembly.*

In the first place, any offence may be committed by more than one person: this in most cases constitutes a case of *abetment* of which I have already spoken: but if *five* or more persons assemble with the object (among others contemplated by the law) of *resisting the execution of the Forest Law*<sup>10</sup>, or by *means of criminal force*, or *show of such force*, of *compelling any one to do what he is not bound to do*, or *not to do what he is legally entitled to do*, or *depriving any person of the use of any forest right or of enforcing any right or supposed right*, or with the object of *committing an offence* (an offence against the Indian Penal Code or under any special law, if punishable with imprisonment of six months or more (section 40):—such assembly is called an “*unlawful assembly*,” and is punishable under sections 141 to 143. It is not necessary that any *results* should have followed: the assembly, for the purpose indicated is illegal, and joining it is a punishable offence *per se*, which is aggravated (section 144) if the party is armed.

### § 3.—*Giving aid and information.*

We have spoken already of the duty laid on certain persons to give information or render assistance in forest cases, &c. (see Forest Act, section 78, &c.).

A person so legally bound, and intentionally omitting to give *information*, would be punishable under section 176, Indian Penal Code, or to give *assistance*, under section 187.

He would come under section 177 if the *information given* were such as he knew, or had reason to believe, were *false*<sup>1</sup>.

Under section 201, Indian Penal Code, if *any person, knowing, or having reason to believe, that an offence under the Indian Penal Code (or may be under the Forest law, if punishable with six months' imprisonment or more) has been committed, causes*

<sup>10</sup> I purposely select *forest* instances: but of course the Indian Penal Code is general.

<sup>1</sup> Also under sections 202 and 203, which are almost precisely the same as sections 176 and 177. I do not know why these provisions were thus virtually repeated twice.

any evidence to disappear, or gives false information, in order to screen the offender, he is liable to punishment.

#### § 4.—*Giving False Evidence.*

Giving false evidence (sections 191 to 195) is an offence which is unfortunately likely to occur in forest cases; but inasmuch as on such an occurrence in a forest trial, the Magistrate or Court would take action, it is only necessary to refer the Forest Officer to the sections of the Code.

#### § 5.—*Concealing Offenders.*

The harboring or concealing<sup>2</sup> offenders, as a step calculated to defeat the ends of public justice, is an offence under the Indian Penal Code, section 202. The "offender" must, however, have committed, or been charged with, an offence under the Indian Penal Code, or under any special law punishable with imprisonment for six months or upwards.

#### § 6.—*Breach of trust.*

A case under this head sometimes occurs, when a contractor has been employed in the forest, to saw up the trees felled, and launch them in certain scantling forms, into the river. It may happen that it pays him well to remove the lighter scantling which is conveniently situated, but larger pieces at a distance from the river may be expensive and troublesome to move. He is then tempted to conceal, burn, or otherwise destroy this timber, so as to avoid the duty of launching it.

Here, it will be observed, the offender does not convert the timber to his own use (section 405), but he does violate the further clause of the same section, namely, he violates the express or implied terms of the contract<sup>3</sup> under which the timber was made

<sup>2</sup> Husband and wife can never be charged with 'harboring' one the other.

<sup>3</sup> A person commits a breach of trust when he violates—

- (a) any direction of the law,—
- (b) any express legal contract,—
- (c) any implied legal contract;—

as to how he is to discharge his trust. (See section 405.)

over to his charge. He can then be prosecuted for breach of trust, to say nothing of a further charge of mischief.

These, I think, will be found to be the principal offences likely to come under the Forest Officer's business, which will require reference to the Penal Code. I ought perhaps more specifically to have alluded to section 409, as applicable in case a clerk or a forest subordinate make away with cash or property of Government. But this subject, I think, will be understood from the note which I appended to my remarks on the subject of theft. Certain offences *by* Forest Officers are more appropriately reserved to the chapter on Forest Officers and their duty.